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AS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/519,165 03/06/00 SHERRER

D ACT-111

EXAMINER

IM52/0717

DAN STEINBERG
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7586 PEPPERS FERRY LOOP
RADFORD VA 24141

WATKINS III, W	
ART UNIT	PAPER NUMBER

1772
DATE MAILED:

07/17/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trad marks

Office Action Summary

Application No.

09/519/165

Applicant(s)

Sherrin

Examiner

W. Williams

Group Art Unit

1772

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 20 April 2001 - checked
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- Of the above claim(s) 1-12 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 13-18 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: 3-6-00 12-7-00 3-1-01 6-7-01 3-1-01 6-7-01

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) File
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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DETAILED ACTION

1. Applicant's election with traverse of Group II, claims 13-18 in Paper No. 6, filed 20 April 2001, is acknowledged. The traversal is on the ground(s) that MPEP 802.01 is not a proper interpretation of 37 U.S.C. 121. This is not found persuasive because applicant has not argued that the examiner did not apply PTO policy correctly, as stated in MPEP 802.01, but instead that, the MPEP section is not a proper interpretation of 37 U.S.C. 121. As the examiner is required to follow PTO policy as articulated in the MPEP, this argument is given little weight.

The requirement is still deemed proper and is therefore made FINAL.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Pedder (GB 2 215 087).

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Figures 3-4 show a metal layer (element 32) which serves as a single mask for the etching of a dielectric layer (element 30), which in turn is over a substrate layer (element 2). Element 44, in Figure 4, is a resist layer which partially covers the area near the edge of element 32, so that the uncovered area is exposed to etching, while the other areas of element, further away from the edge, are protected from etching. The side walls of all of the layers appear to be aligned. The particular method of dry or wet etching is given no weight unless it can be shown to produce a different physical product.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is (703) 308-2420.

The examiner's normal work hours are Monday through Friday 9:30 A.M. through 6:00 P.M. The examiner's supervisor is Harold Pyon whose telephone number is (703) 308-4251. Any general inquiry can be directed to the Group receptionist whose telephone number is (703) 308-0651.

The Fax number for official **after final** papers is 703-872-9311. The Fax number for official **non-final** papers is 703-872-9310. The Fax number for **informal** non-official communications directed to the examiner is 703-305-5436.



WW/ww
July 2, 2001

WILLIAM P. WATKINS III
PRIMARY EXAMINER